

IN THE COURT OF COMMON PLEAS

COUNTY OF SUMMIT

DAVID H. SMITH	)	CASE NO. CV 2001 10 4932
	)	
Plaintiff	)	JUDGE BOND
	)	
-vs-	)	
	)	
STATE AUTOMOBILE MUTUAL, et al.	)	<b><u>RULING ON MOTIONS FOR</u></b>
	)	<b><u>SUMMARY JUDGMENT</u></b>
Defendants	)	

This matter came before the court on motion for summary judgment by Defendant Swift Transportation Company on the complaint and the cross-claim of State Automobile Mutual Insurance Co.

Also before the court is the motion for summary judgment by Defendant Clarendon National Insurance Company.

Swift Transportation Company is the employer of Plaintiff David Smith. Clarendon National Insurance Company issued a commercial automobile liability police to Swift Transportation as an excess policy for liability over \$500,000.00.

Recognizing that the law is in flux in this area of automobile liability insurance, the court has delayed ruling on the motions. However, trial is set on February 4, 2003.

The court finds that Swift Transportation Company is a self insured entity as set forth in Grange Mut. Ca. Co. v. Refiners Transport and Terminal Corp. (1986), 21 Ohio St.3d 47. See also Jennings v. City of Dayton (1996), 114 Ohio App.3d 144.

The motion for summary judgment is well taken and is granted.

The motion of Clarendon National Insurance Company rests on the issue of the choice of law applying under the facts before the court. The court must apply the factors set forth in Ohayon v. Safeco Ins. Co. of Illinois, (2001), 91 Ohio St.3d 474. Consideration of the factors results in the conclusion that the law of the State of Arizona is applicable herein.

The motion for summary judgment is well taken and is granted.

This constitutes final judgment as to these Defendants, there being no just cause for delay.

It is so ordered.

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JUDGE JANE BOND

cc: Attorney Kevin T. Roberts  
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Attorney Gary A. Piper

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